APPENDIX A — AMENDED COMPLAINT DATED MARCH 24, 1998

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT
OF NORTH CAROLINA
WESTERN DIVISION
CASE NO. 5:97-CV-1040-BO2

LARRY BARNES, SR., MD

Plaintiff

vs.

LOWE'S COMPANIES, Inc.

Defendant

AMENDED COMPLAINT

1. The Plaintiff is an individual citizen of the State of North Carolina and resides in Wake County.

2. The Defendant, Lowe's Company Inc., is a corporation organized and doing business under the laws of North Carolina but with offices and retail outlets nationally. The corporate headquarters of the named defendant is located at State Highway 268 East (Elkin HWY.), North Wilkesboro, North Carolina 28659. The corporation operates retail outlets throughout the United States, including a unit referred to as Lowe's Home Improvement Warehouse located at 4601 Capital Boulevard, Raleigh, North Carolina 27604. It is the incident at this location from which the cause of action resulted.

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3. The jurisdiction of this action is pursuant legislative act and judical rulings as follows; U.S. Constitution, Bill of Rights, Fourth Amendment, U.S. v. Riemer,D.C. Ohio 392 F.Supp. 1291. 1294, Thirteen Amendment as amended by United States Supreme Court ruling Jones vs. Alfred H. Meyer Co 392 U.S. 409 (1968)/Sullivan vs. Little Hunting Park 369 U.S. 229 (1969)/Johnson vs. Railway express Agency 421 U.S. 454 (1975), Fourteenth Amendment section 1883, Eaton v. State,Del. 363 A.2d 440.441, General Building Contractors Association, Inc v. Pennsylvania 458 U.S. 375(1982), U.S.C. 42 sections 1981,1992,1983,1985, and1986, Civil Rights Act of 1866 sections 1981 and 1982, Civil Rights Act of 1871 sections 1983 and 1985, Civil Rights Act of 1964 Title II, 42 U.S.C. 2000a(a-e), Heart of Atlanta Motel vs. United States 379 U.S. 241 (1964), Time,Inc vs. Firestone 424 U.S. 448, 460 (1976), Burton vs. Wilmington Parking Authority 365 U.S. 715 (1961), Bob-lo Excursion Co vs. Michigan 333 U.S. 28 (1948), Bell vs. Kenwood golf and Golf and country club 312 F. Supp. 753 (1970), Dupler vs. Seubert, 69 Wis 2 373, 381 230 N.W. 2d 626,631 (1975), Healy vs Sea Gull Speciality Co 237 U.S. 479 480, 35S. ct. 658 659 59 L.E.d 1056 (1915) and other laws and rulings as amendments needed.

4. The Plaintiff alleges and says that on December 30, 1995, the Plaintiff who is an African American physician, went to Lowe's Home Improvement Warehouse located at 4601 Capital Boulevard in Raleigh, North Carolina. The purpose of this shopping excursion was to purchase a replacement water filter cartridge for a water filtration unit that had been purchased at the Lowe's Home Improvement Warehouse previously. The Plaintiff was accompanied on this trip by his sixteen year old son who decided to remain in the car since the Plaintiff was to pick up one item quickly and return home. The specific item in

question was a Teledyne cartridge filter with Lowe's Item # 25694 with a purchase price of $5.96. The Plaintiff left his son in the car, telling him that he would be back in less than five minutes; then he rushed into the retail outlet. The Plaintiff went in the retail establishment with the clear intent of purchasing merchandise which the mercantile establishment offered for sale. At the time, the Plaintiff entered the mercantile establishment known in this action as Lowe's Home Improvement Warehouse. The Plaintiff had ample financial resources on him to purchase the item of intent. At the time the Plaintiff entered the establishment operated by the defendant, he had the following assets on his person: $2,500 cash (U.S. Currency), credit cards with purchasing power of $30,000.00, and a credit card issued by the defendant (Lowe's Company Credit) in the amount of $4,000. Hence, the Plaintiff entered the establishment with purchasing power of $36,500. After entering the establishment and locating Lowe's item # 25694 Teledyne cartridge, the Plaintiff proceeded towards the checkout area. However, on the way to the front of the store the Plaintiff noticed that the establishment was having a clearance on computers and related items. Noting what appeared to be a number of good buys, the Plaintiff began picking up and examining items for purchase and soon had more items than he could carry in his hands. At this point, the Plaintiff realized that he needed a shopping cart or some way to carry the numerous items that he had planned to purchase. The Plaintiff saw an unattended shopping cart in the middle of an isle with trash in the bottom which consisted of paper and cardboard fragments and flatten boxes. Since no other customer claimed the cart and there were no objections from store personnel, the Plaintiff decided to use this unclaimed shopping cart to carry his unplanned purchases to the checkout. Many of the items under scrutiny did not have prices posted. A Lowe's

employee, after doing several price checks, helped me load several of the bulkier items into the cart. Having second thoughts, the Plaintiff decided not to purchase the larger more expensive items, but did keep a dozen or so smaller items. The Plaintiff proceeded to the checkout area with the merchandise he had planned to purchase. After arriving at the checkout counter, the Plaintiff placed each item on the counter. The items where checked and bagged by the clerk. After receiving payment, the clerk put the transparent bags into the same cart that I had used to bring the items to the checkout. The Plaintiff was given a receipt and proceeded to push the shopping cart through the exit uneventfully. After leaving the store and while in the parking lot, the Plaintiff was approached by a Lowe's employee who was identified as "Gene Blount". This person who henceforth in this action shall be called Lowe's Theft Prevention Officer, savagely and rudely approached the Plaintiff and accused the Plaintiff of **SHOPLIFTING.** Outside of the store in the parking lot, Lowe's Theft Prevention Officer began tearing through the Plaintiff's shopping cart like a demon possessed maniac. He performed a strip search of parcels and the shopping cart, throwing trash out of the cart and going through each bag demanding to see my receipt. This indignity caught the Plaintiff completely off guard, in that the Plaintiff had not stolen nor conspired to steal any item or items from Lowe's Home Improvement Warehouse. The Plaintiff has no criminal background and is not a thief! This entire episode took place in an open parking lot with dozens of people viewing. The event unfolded with such speed and brutality that it took the plaintiff several minutes to get his bearing in this situations; after which the Plaintiff behaved as any totally innocent victim would have under similar circumstances. The Plaintiff, who is normally a pacifist, became extremely angry and released a barrage of verbal expletives which drove his assailant, Lowe's

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Theft Prevention Officer, back into the establishment from whence he had come. The Plaintiff followed the Lowe's Theft Prevention Officer in hot pursuit back inside of the establishment to make an inquiry. The defendant's employee had not given me his name. This information was obtained from the store personnel after the Plaintiff returned inside of the store to express his indignation at being publicly humiliated, defamed, and dehumanized. A young African American male Lowe's employee who had witnessed this atrocity and wished to remain anonymous for fear of loss of employment, said: "man they dissed(disrepected) you, they gave you nigger treatment, but, I need this job." Upon returning to the Plaintiffs car, the Plaintiff's son inquired as to why the Plaintiff was so upset and why had it taken so long? An explanation was given to my son who became upset and saddened. The Plaintiff returned home with elevated blood pressure suffering with chest and epigastric pain. The Plaintiff related this incident to friends and family who were in shock and incredulity.

5. The Plaintiff alleges and says that the aforementioned actions by the Defendant was morally wrong and outrageous and represents an invasion of the Plaintiff's physical and psychological integrity. The Plaintiff was publicly humiliated, defamed, slandered, libeled and otherwise subjected to injurious acts by the Defendant. The Defendant was negligent and acted with reckless disregard in this act of **"MERCANTILE RACISM"** and Racism per se. The Plaintiff has suffered much mental anguish which in effect is **"cruel and unusual punishment"** caused by the racism and negligence of the defendant.

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FIRST COUNT

6. The Plaintiff as a result of the acts of the Defendant has been the victim of racial discrimination and violation of civil rights. The Defendant used Race as a basis for its illegal search and seizure. There was not probable cause in the action taken against the Plaintiff except the use of Race or **"Black Codes"**. The Plaintiff argues on Factual issues because a reasonable jury would find that the defendant had no probable cause to believe that the Plaintiff was a thief or a shoplifter. The plaintiff was singled out because of his race. The Plaintiff met all reasonable requirements for reasonable behavior, in that he paid for all mechandise before exiting, had material bagged, and got a receipt. White customers could be seen existing the establishment with merchandised unbagged, and without visible receipts where not detained and searched. This dual standard represents a violation of the Plaintiff's civil rights as prescribed by Federal Law. The Defendant was practicing "Mercantile Racism".

SECOND COUNT

7. The Plaintiff was subjected to wrong detention and false imprisonment. The Defendant sought unlawful restraint of the Plaintiff's physical and psychological liberty without probable cause. A reasonable injury would find that the Defendant had no probable cause for detention. An over zealous racially motivated Theft Prevention Officer can not deprive an innocent citizen of his constitutional liberties.

THIRD COUNT

8. Defamation, defamation per se, slander, and libel were suffered by the Plaintiff as a result of the public humiliation

inflected by the Defendant. The Defendant made the Plaintiff into a public spectacle and object of shame and ridicule. The acts by the Defendant were injurious to the Plaintiff's (victim) reputation and disgraced him. There was no basis in truth or fact for said acts by the defendant, hence no probable cause for this malicious racist act.

FOURTH COUNT

9. Corporate Mal Practice resulted when the Defendant did not follow the "standard of care" and made an incorrect diagnosis when it labeled the Plaintiff as a thief or shoplifter. The Defendant used subjective bias criterion which resulted in an incorrect conclusion. This incorrect diagnosis resulted in harm to the Plaintiff both physically and mentally.

FIFTH COUNT

10. Negligence by the Defendant before and after the fact. The Defendant's employees were not trained to respect human dignity and how to handle the complications which could result from their action or failure to act. The Defendants communication with the Plaintiff that were incorrect and inappropriate either represent a bold defiance of existing law or ignorance, indifference, and incompetence.

SIXTH COUNT

11. Interference with the right to make and enforce contracts and ability to purchase personal property. The detention and strip searching of the plaintiff's packages in the parking lot was a scary ordeal. Because he had told his son that he would be in the store for only five minutes; yet, he had

remained in the store for over thirty minutes. The plaintiff had to leave the store before he had completed the inspection and purchase of the discontinued discounted merchandise. The plaintiff had planned to purchase additional merchandise from the discounted area; but because he had left his son in the car, he made his purchases and left the store with the intention of returning to purchase additional items after taking his son home. After the incident in question, the plaintiff felt intimidated and frightened. As a result of Lowe's wrongful acts with its Jim Crow and Black Code effect on the plaintiff, he could not come back to the store to complete his planned purchases. the plaintiff was subjected to humiliation, embarrassment, and the legacy of slavery now called "Consumer or Mercantile Rascism". The plaintiff was not treated like a White Man but the "Three-fifths Man" wearing the badges and incident of slavery. What reasonable person would have returned to Lowe's to resume shopping? The plaintiff would have been negligent, reckless, and would have assumed unnecessary risks had he attempted to shop for more discounted merchandise. Fear and intimidation prevented the plaintiff from further purchases. The action of Lowe's interfered with the right of the plaintiff to make further purchases or to enter into a retail contract. this racially discriminatory act is a violation of 42 U.S.C. sections 1981 and 1982. Lowe's intentional discrimination against the law abiding, God fearing plaintiff because he is an African American is clearly a violation of the plaintiff's civil rights. *Green v. State Bar of Texas, 27 F.3d 1083,1086 (5th cir. 1994), Mian v. Donaldson, Lufkin & Jenrette Securities Corp., 7 F.3d 1085,1087 (2d Cir.1993).*

SEVENTH COUNT

12. Intentional and negligent infliction of emotional distress. This event was scary! Lowe's exhibited extremely

outrageous conduct, abuse of power, and general reckless intolerable behavior. The disconcerting and humiliating experience was intended to cause severe emotional distress to the plaintiff. *Dickens v. Puryear 276 S.E. 2d 325,335 (NC1981), Harris v. Jones 281 Md. 560,380 A.2d 611 (1977).*

EIGHTH COUNT

13. Violation of fourth amendment rights. the plaintiff was subjected to illegal search and wrongful detention without probable cause. There were no reasonable grounds for accusing the plaintiff of shoplifting or theft. *U.S. v. Riemer, D.C. Ohio, 392 F. Supp. 1291, 1294*

14. The Plaintiff has carefully preserved the evidence from the ordeal. The original receipt, merchandise and bags have been carefully preserve as to be presented pursuant the rules of evidence. The Plaintiff is confident that a reasonable Jury will find in his favor.

WHEREFORE, Plaintiff demands Judgement against Defendant, for:

A. The Plaintiff demands a written apology for his indignity and humiliation and that should similar events occur in the further that the Defendant will "at least" have the courtesy to apologize.

B. The sum of $1,000,000.00 for compensatory damages

C. The sum of $25,000,000.00 for punitive damages

D. For such cost and further relief as the court may deem

Appendix A

By s/ Larry Barnes
Larry Barnes, Sr., MD Pro Se
2920 Legging Lane
Raleigh, North Carolina 27615
(919) 676-8205

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day served the attached court document on all parties to this cause by depositing a copy hereof, postage prepaid, in the United States Mail, addressed to the attorney for each said party as follows:

Robert W. Sumner, Attorney at Law
Post Office Box 27808
Raleigh, North Carolina 27611-7808
(919) 828-5100

This 24th day of March, 1998.

s/ Larry Barnes
Larry Barnes, Sr., MD (Pro Se)
2920 Legging Lane
Raleigh, North Carolina 27611-7808
(919) 676-8205

APPENDIX B — COMPLAINT DATED AND FILED DECEMBER 30, 1997

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT
OF NORTH CAROLINA
WESTERN DIVISION
CASE NO. 5:97-CV-1040-1302

LARRY BARNES, SR., MD

plaintiff

vs.

LOWE'S COMPANIES, Inc.

defendant

COMPLAINT

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Appendix B

3. The jurisdiction of this action is pursuant legislative act and judical rulings as follows; U.S. Constitution, Bill of Rights, Thirteen Amendment as amended by United States Supreme Court ruling Jones vs. Alfred H. Meyer Co 392 U.S. 409 (1968)/Sullivan vs Little Hunting Park 369 U.S. 229 (1969)/Johnson vs. Railway express Agency 421 U.S. 454 (1975), Fourteenth Amendment section 1883, Civil Rights Act of 1866 sections 1981 and 1982, Code 42 U.S.C. 1981, Civil Rights Act of 1871 sections 1983 and 1985(3), Civil Rights Act of 1964 Title II, 42 U.S.C. 2000a(a-e), Heart of Atlanta Motel vs. United States 379 U.S. 241 (1964), Time,Inc vs. Firestone 424 U.S. 448,460 (1976), Burton vs. Wilmington Parking Authority 365 U.S. 715 (1961), Bob-lo Excursion Co vs. Michigan 333 U.S. 28 (1948), Bell vs. Kenwood golf and Golf and country club 312 F. supp 753 (1970), Dupler vs. Seubert, 69 Wis 2 373, 381 230 N.W. 2d 626,631 (1975), Healy vs Sea Gull Speciality Co 237 U.S. 479 480, 35S. ct. 658 659 59 L.E.d 1056 (1915) and other laws and rulings as amendments needed.

4. The Plaintiff alleges and says that on December 30, 1995, the Plaintiff who is an African American physician, went to Lowe's Home Improvement Warehouse located at 4601 Capital Boulevard in Raleigh, North Carolina. The purpose of this shopping excursion was to purchase a replacement water filter cartridge for a water filtration unit that had been purchased at the Lowe's Home Improvement Warehouse previously. The Plaintiff was accompanied on this trip by his sixteen year old son who decided to remain in the car since the Plaintiff was to pick up one item quickly and return home. The specific item in question was a Teledyne cartridge filter with Lowe's Item # 25694 with a purchase price of $5.96. The Plaintiff left his son in the car, telling him that he would be back in less than

five minutes; then he rushed into the retail outlet. The Plaintiff went in the retail establishment with the clear intent of purchasing merchandise which the mercantile establishment offered for sale. At the time, the Plaintiff entered the mercantile establishment known in this action as Lowe's Home Improvement Warehouse. The Plaintiff had ample financial resources on him to purchase the item of intent. At the time the Plaintiff entered the establishment operated by the defendant, he had the following assets on his person: $2,500 cash (U.S. Currency), credit cards with purchasing power of $30,000.00, and a credit card issued by the defendant (Lowe's Company Credit) in the amount of $4,000. Hence, the Plaintiff entered the establishment with purchasing power of $36,500. After entering the establishment and locating Lowe's item # 25694 Teledyne cartridge, the Plaintiff proceeded towards the checkout area. However, on the way to the front of the store the Plaintiff noticed that the establishment was having a clearance on computers and related items. Noting what appeared to be a number of good buys, the Plaintiff begin picking up and examining items for purchase and soon had more items than he could carry in his hands. At this point, the Plaintiff realized that he needed a shopping cart or some way to carry the numerous items that he had planned to purchase. The Plaintiff saw an unattended shopping cart in the middle of an isle with trash in the bottom which consisted of paper and cardboard fragments and flatten boxes. Since no other customer claimed the cart and there were no objections from store personnel, the Plaintiff decided to use this unclaimed shopping cart to carry his unplanned purchases to the checkout. Many of the items under scrutiny did not have prices posted. A Lowe's employee, after doing several price checks, helped me load several of the bulkier items into the cart. Having second thoughts, the Plaintiff decided not to purchase the larger more expensive items, but

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establishment to make an inquiry. The defendant's employee had not given me his name. This information was obtained from the store personnel after the Plaintiff returned inside of the store to express his indignation at being publicly humiliated, defamed, and dehumanized. A young African American male Lowe's employee who had witnessed this atrocity and wished to remain anonymous for fear of loss of employment, said: "man they dissed(disrespected) you, they gave you nigger treatment, but, I need this job." Upon returning to the Plaintiff's car, the Plaintiff's son inquired as to why the Plaintiff was so upset and why had it taken so long? An explanation was given to my son who became upset and saddened. The Plaintiff returned home with elevated blood pressure suffering with chest and epigastric pain. The Plaintiff related this incident to friends and family who were in shock and incredulity.

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FIRST COUNT

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SECOND COUNT

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C. The sum of $25,000,000.00 for punitive damages

D. For such cost and further relief as the court may deem

By s/ Larry Barnes
Larry Barnes, Sr., MD Pro Se
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CERTIFICATION

The undersigned hereby certifies that the matter in controversy in not the subject of any other action pending in any court. The undersigned further certifies that to my knowledge there are no other parties joined in this action at this time but reserves the right to allow the ACLU or any similar interested party to join if deemed appropriate.

I hereby certify that the foregoing statements made by me are true.

Dated: 1/3/97

s/ Larry Barnes
Larry Barnes